

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) 3:12-cr-00051-RCJ-VPC
)
ADAM SCOTT,)
)
Defendant.)
)

ORDER

Defendant was convicted under 18 U.S.C. § 924(c) for use of a firearm during and in relation to a crime of violence (assault with a dangerous weapon under 18 U.S.C. § 113(a)(3)). He moved for relief from these convictions pursuant to 28 U.S.C. § 2255, claiming that this conviction is improper under *Johnson v. United States*, 135 S. Ct. 2551 (2015). In *Johnson*, the Court invalidated the residual clause of the Armed Career Criminal Act. At the time of his original motion, the Ninth Circuit held that the Supreme Court has not yet recognized whether *Johnson* also invalidated the residual clause in § 924(c)(3)(B). This Court denied the motion, and Defendant appealed. During the course of the appeal, the Supreme Court held that the residual clause under § 924(c)(3)(B) was also unconstitutional in *United States v. Davis*, 139 S. Ct. 2319 (2019). Defendant therefore filed a renewal of his § 2255 motion based upon *Davis*. (ECF No. 42.) The Ninth Circuit has since

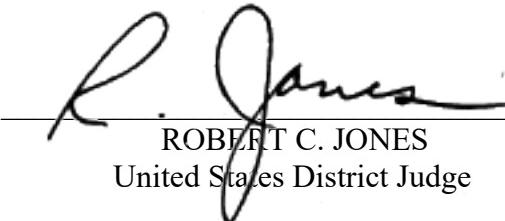
1 affirmed the Court's denial of the underlying motion citing *United States v. Gobert*, 943 F.3d 878,
2 881 (9th Cir. 2019), where the Ninth Circuit analyzed whether assaults with a dangerous weapon
3 under 18 U.S.C. § 113(a)(3) are crimes of violence under *Davis*. (ECF No. 40.) Defendant filed a
4 writ of certiorari to the Supreme Court, which the Court denied. (ECF No. 44.) As the Ninth Circuit
5 rejected the argument that Defendant seeks to preserve through its renewed motion, this Court
6 denies the renewal as moot.

7 **CONCLUSION**

8 IT IS HEREBY ORDERED that Motion to Vacate, Set Aside, or Correct Sentence under 28
9 U.S.C. § 2255 (ECF No. 42) is DENIED AS MOOT.

10 IT IS SO ORDERED.

11 Dated November 8, 2021.

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13 ROBERT C. JONES
14 United States District Judge
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